

1865

Annual Report of the Attorney General to the Legislature of Minnesota [1864]

Minnesota Attorney General

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ANNUAL REPORT

OF THE

ATTORNEY GENERAL,

1864

TO THE

LEGISLATURE OF MINNESOTA.

REPORT.

STATE OF MINNESOTA,
ATTORNEY GENERAL'S OFFICE,
St. Paul, Dec. 28, 1864. }

Rep
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1864

His Excellency, Stephen Miller, Governor of Minnesota:

SIR:—I have the honor herewith to submit my annual report of the business of this office for the year ending Nov. 30th, 1864.

The delay in the transmission to this office of the reports of the several county attorneys has prevented an earlier compliance with the requirements of law.

SUPREME COURT.

I have to report no business in the Supreme Court during the past year. But one appeal in a criminal case has been taken, which was dismissed by consent of parties.

SUPREME COURT OF THE UNITED STATES.

State of Minnesota v. George W. Batchelder.

This case has been argued since my last report, and a decision rendered in favor of the State.

A delay in the transmission of the mandate to the Supreme Court of the State has prevented final action on this case. The mandate was received and filed a few weeks since, and at the ensuing term of the Supreme Court, the Court will be moved for an order in accordance with the mandate, reversing its previous decision and remanding the case to the District Court of Rice county for trial at the May term of that court.

DISTRICT COURT, RICE COUNTY.

Upon the announcement of the decision of the court in

J81202

the case of the State vs. Batchelder, judgment was obtained at the May term of the District Court of Rice county, in favor of the State, in the following actions, involving the same principles:

State of Minnesota vs. William H. Stephens.
 State of Minnesota vs. John and Maria B. Hill.
 State of Minnesota vs. Sarah Wilcox.
 State of Minnesota vs. George W. Newell.

DISTRICT COURT, LESUEUR COUNTY.

Boser v. Kimball & Baldwin.

Replevin against State agents for property seized by them under authority from Governor.

This case is in charge of the county attorney of LeSueur county and was continued at last term, on affidavit of plaintiff of absence of material testimony.

DISTRICT COURT, STEELE COUNTY.

State of Minnesota, ex rel Melvin and Benj. F. Melvin against W. W. Finch.

Information in nature of quo warranto to enforce Melvin's right to the office of county treasurer of Steele county.

Judgment for plaintiff on stipulation of parties.

DISTRICT COURT, HENNEPIN COUNTY.

State of Minnesota v. Cutter.

At the request of the county attorney, I attended at the May term of this court, to assist in the prosecution of Cutter for the murder of Littlefield.

After the case had been fully and fairly tried, and all the evidence elicited accessible, the prosecuting officers, with the approval of the court, consented to a verdict of acquittal.

WINNEBAGO TRUST LANDS.

The controversy between the State and the Department of the Interior as to the right of the State to school sections upon the Winnebago Reservation, has been determined by the Department adversely to the claims of the State.

Believing the question to be one of considerable importance, and that strong legal arguments can be urged in support of the position of the State, it is my purpose, with the approbation of your Excellency and the Legislature, to institute an action for the purpose of testing the question.

With this view, I have addressed a communication to the County Attorney of Waseca, desiring the description of such tract as he shall deem most convenient for raising the question, and to which the United States have transferred, or attempted to transfer, the title to a purchaser under the recent sale of those lands, but am not yet in possession of the requisite information.

CONTINGENT FUND.

The Legislature at its last session appropriated the sum of five hundred dollars to this office as a contingent fund for the payment of witnesses, court expenses, mileage and per diem of Attorney General, &c. I herewith submit account of the expenditures of that fund :

State of Minnesota,

In account with Attorney General's office.

CR.

By Contingent Fund, - - -	\$500 00
To per diem, and mileage, computed from the Capitol, of Attorney General in school sections cases at May term District Court Rice County, - - -	37 00
To per diem and mileage of Attorney General, attendance at district court Hennepin county, in prosecution of Cutter, - - -	16 00
By balance on hand and unexpended, -	\$447 00

The amount expended during the present year, it will be seen, is slight. The expenses in the suit against Batchelder were paid by a special appropriation, and the taxable costs by the defendant. Less business has been transacted by this office requiring such fund during the present, than any previous year.

The decision of the Supreme Court upon the questions with reference to our school lands, and the contemplated litigation respecting the Winnebago trust lands, together with many other cases likely to arise at any time, and which cannot be foreseen, make it, in my opinion, expedient and important that the appropriation should be continued.

CRIMINAL STATISTICS.

The Legislature of 1861 made a provision for the collection of criminal statistics under the supervision of the Attorney General. Through the general compliance with the law by the county attorneys of the several counties of the State, I am enabled to lay before you fuller tabular statements of criminal cases, than ever before—comprising reports from nearly all the principal counties. These reports, although imperfect, are sufficiently exact to afford a gratifying exhibit of the state of public morals. Although the number of prosecutions reported is slightly in excess of any previous year, this excess I presume can be satisfactorily accounted for by the fact that more counties have reported than ever before.

Of the cases reported, nearly one-half are trivial cases of assault and battery, before justices of the peace. Deducting these, and other cases of misdemeanors punishable by fine, and the number of cases rising to the dignity of felony, will be found surprisingly small.

Another indication leading to the same conclusion, is afforded by the fact that no case of sufficient importance to be taken to the Supreme Court, has occurred during the year.

Neither can this apparent immunity from crime be accounted for upon the theory of a lax administration of the criminal code incident to a new country. In this particular it is conceived that Minnesota will compare favorably with any of her sister States, old or new.

In the old and moral state of Massachusetts whose criminal laws are administered with a rigor and fidelity nowhere surpassed, the proportion of acquittals to convictions is but a trifle less than one to three.

The tables appended will show that in Minnesota, the proportion is but a trifle more than one to three.

All of which is respectfully submitted.

G. E. COLE,
Att'y General.

CRIMINAL STATISTICS.

ANOKA COUNTY.

	Number.	Convictions.	Punishm't by fine.	Total costs.	Costs collected.	Fines assessed.	Fines collected.	Costs collectable.	
Larceny,	-	1	1	\$7 15	\$7 15			\$2 75	Appeal'd.
Assault and battery,	-	2	2	4 95	2 20	\$30 00		37 50	Married.
Violation of Liquor laws,	-	3	3	37 50		75 00			
Seduction,	-	1		23 50					
Other offences, -	-	12	10	47 50	34 10	81 00	\$41 00	13 40	
	-	-	-	-	-	-	-	-	
	19	17	16	120 60	43 35	186 00	41 00	53 65	

BLUE EARTH COUNTY.

	Number.	Convictions.	Acquittals	Nol pros- equi.	Total costs.	Costs collected.	Paid by county.	Fines assessed.	Fines collected.
Murder in first degree.	1				\$19 80				
Assault and battery,	13	10	2	1	27 95	\$27 95	\$19 80	\$245 00	\$245 00
	-	-	-	-	-	-	-	-	-
	14	10	3	1	47 75	27 95	19 80	245 00	245 00

CARVER COUNTY.

	Number.	Convictions.	Acquittals.	PUNISHMENT.		Total costs.	Paid by County.	Fines collected.
				S. Prison und'r 2 yrs	Fines.			
Manslaughter, first degree,	1	1		1		\$200 00	\$200 00	
Assault,	1	1			1	20 00	20 00	\$50 00
Assault and battery,	10	8	2			100 00	20 00	90 00
Malicious mischief,	3	3						20 00
Cutting timber on school lands,	1	1						5 00
Violating Sunday law,	2	2					10 00	10 00
	18	16	2	1	1	\$320 00	\$250 00	\$175 00

CHISAGO COUNTY.

Receiving stolen goods,	1	Continued for cause until next term.
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DAKOTA COUNTY.

	Number.	Convictions.	Acquittals.	PUNISHMENT.			Total costs.	Costs collected.	Paid by county.	Fines assessed.	Fines collected.
				No!l prosiguit.	Imprisonment in Co. jail.	Fines.					
Murder in first degree,	2	1	1				\$500 00		\$500 00		
Assault with intent to kill,	1	1					50 00		50 00	\$10 00	\$10 00
Larceny,	6	2	2	2	1	1	109 45	\$9 90	98 55	\$10 00	
Assault and battery,	20	15	4	1		15	154 57	51 10	73 41	95 00	80 00
Rape,	2		2				150 00		150 00		
Perjury,	1			1			16 75		16 75	10 00	
Malicious mischief,	2	1	1			1	46 84		46 84		
Adultery,	2						50 00		50 00		
Embezzlement,	1	1				1	5 10	5 1		10 00	10 00
Other offences,	10	2	3	5			38 80	15 00	23 80		
	47	21	13	9	1	18	1,121 51	81 10	1099 35	125 00	100 00

FARIBAULT COUNTY.

	Number.	Convictions.	Acquittals.	PUNISHMENT.		Total costs.	Paid by County.	Fines assessed.
				Im. in Co.	Fines.			
Larceny, - - -	3	2		1	1	\$96 94	\$96 94	\$100 00

FILLMORE COUNTY.

	Number.	Convictions.	Acquittals.	Punishment by fine.	Total costs	Costs collected.	Costs collectable.	Paid by County.	Fines assessed.	Fines collected.
Assault and battery, - - -	11	9	2		\$199 92	\$159 92	\$40 00		\$85 00	
Larceny, - - -	1		1					\$14 88		
Violation of liquor law, - - -	5	3	2	3	95 45	63 10		32 25	75 00	\$75 00
Other offences, - - -	1		1					9 46		
	18	12	6	3	\$295 37	\$223 02	\$40 00	\$56 59	\$160 00	\$75 00

GOODHUE COUNTY.

	Number.	Convictions.	Acquittals.	Punishm't Im. under 7 years.	Total costs.	Costs col- lectable.	Paid by State.	Paid by County.
Larceny,	1	1		1	\$361 28	\$361 28	\$40 00	\$321 28
Malicious mischief,	1		1		127 48	127 48		127 48
	2	1	1	1	\$488 76	\$488 76	\$40 00	\$488 76

HOSUTON COUNTY.

	Number.	Acquittals.	Nolle Prosequi.	
Malicious mischief,	1			1
Nuisance, -	1	1		
	2	1		1
No report of costs in either case.				

HENNEPIN COUNTY.

	Number.	Convictions.	Acquittals.	Nolle Prosequi.	Im. under 7 years.	In County Jail.	Punishment.	Under influence of intoxicating liquors.	Total costs.	Costs collect'd	P'd by County	Fines assessed	Fines collected
Murder in the First Degree,	2		1					1	\$48 55	\$30 00	\$18 55	250 00	\$50 00
Arson,	1		1				2	1	60 52	50 67	9 85	85 00	85 00
Larceny,	3	3						13	43 00		43 00		
Assault and Battery,	16	13	3		1				17 08		17 08		
Incest,	1	1			1								
Assault with dangerous weapons,	1	1											
	23	18	5		2	2	14	1	169 15	80 67	88 48	335 00	135 00

LE SUEUR COUNTY.

Larceny.*	1	1	1									\$5 00	\$5 00
Assault and Battery,	2	1	1										
	3	1	1									5 00	5 00

MORRISON COUNTY.

Assault and Battery,	2	2						2	\$7 35	\$7 35		\$10 00	\$10 00

*Prisoner paid costs and enlisted.

MOWER COUNTY.

	Number.	Convictions.	Punishment by fine.	Under influ- ence of intox- liquo.	Total costs.	Costs collected.	Costs col- lectable.	Paid by county.	Fines as- sessed.	Fines col- lected.
Assault and Battery, - -	1	1	1		\$15 50				\$10 00	

NICOLLET COUNTY.

Assault with intent to kill, -	1									
Larceny, - - -	5									
Assault and Battery, - -	11									
Obtaining g'ds under false pret'es,	1									
Perjury, - - -	1									
Contempt of Court, - -	1									
Other offences, - - -	6	2	6	5	\$207 13	\$24 45	\$40 00	\$170 78	\$40 00	\$25 00
	26	2	6	5						

RAMSEY COUNTY.

	Number.	Convictions.	Acquittals.	PUNISHMENT.		Total costs.	Costs collected.	Paid by county.	Fines assessed.	Fines collected.
				Impr't in Co. jail.	Fines.					
Larceny,	1	1			1	\$10 37		\$10 37	\$500 00	
Assault and battery,	1	1		1		10 79		10 79		
Embezzlement,	1	1	1			8 67		8 67		
Other offences,	3	3				10 00	\$6 00	4 00	60 00	\$60 00
	6	5	1	1	4	39 83	6 00	33 83	560 00	60 00

RICE COUNTY.

	Number.	Convictions.	Acquittals.	PUNISHMENT.		Total costs.	Costs collected.	Paid by county.	Fines assessed.	Fines collected.
				Impr't in Co. jail.	Fines.					
* Larceny,	3	1	1			\$42 40			\$215 00	\$200 00
† Counterfeiting,	1	1				2 70	\$42 40		60 00	60 00
Assault and battery,	9	9				7 80	2 70	\$5 10		
Malicious mischief,	3	1	2			18 46	9 16	9 30	30 00	30 00
Other offences,	4	1	3							
	20	12	6	10	10	68 26	54 26	14 40	305 00	290 00

* 1 Indicted, and bond for \$200 forfeited.

† Indictment found, and bond for \$300 forfeited.

SCOTT COUNTY.

	Number.	Acquittals.	Punishment Death	Under influence of intoxicating liquors.	Fines assessed	Fines collected	
Murder in the First Degree,	1	1	1				
Larceny,	1	1		1			
Assault and Battery,	8	3			\$50 00	\$25 00	
Attempt to Commit Rape,	1						Under Recognisance.
Threatening body harm,	1						Bound over to keep the Peace.
	12	5	1	1			

SIBLEY COUNTY.

	Number.	Acquittals.	Fines assessed	Fines collected	
Assault with intent to kill,	1	1			
Assault and battery,	4		\$20 00	\$20 00	

STEARNS COUNTY.

	Number.	Convictions.	Acquittals.	Total Costs.	Paid by County.	Fines assessed.	Fines collected.	Convicted of assault.
Assault with intent to kill,	1	1	1	\$13 50	\$13 50	\$500 00		
Larceny,	1	1				5 00	\$5 00	
Malicious mischief,	1	1				\$500 00	\$5 00	
	3	2	1	\$13 50	\$13 50	\$500 00	\$5 00	

WABASHAW COUNTY.

	Number.	Convictions.	Acquittals.	Punishment by fines.	Total Costs.	Costs collected.	Fines assessed.	Fines collected.
Assault with intent to kill.	1	4	1	1	\$31 20	\$31 20	\$70 00	\$70 00
Assault and battery,	4	4						
	5	4	1	1	\$31 20	\$31 20	\$70 00	\$70 00

WASHINGTON COUNTY.

	Number.	Convictions.	Acquittals.	Nolle Proseq.	Punishment.			Total costs.	Costs collect'd	Pd by County	Fines assessed	Fines collect'd
					Im. under 1 years.	In County jail.	Fines.					
Assault with intent to do injury,	1	1		1			1	\$8 00	\$8 00		\$20 00	\$20 00
Assault and Battery,	1	1										
	2	1		1			1	8 00	8 00		20 00	20 00

WASECA COUNTY.

Larceny,	1	1	1					\$25 00	\$25 00			
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WINONA COUNTY.

Assault with intent to kill,	1	3	1	1	1	2		110 78	110 78	110 78		
Larceny,	3	3						141 64	141 64	141 64		
Passing counterfeit money,	1	1	1		1			55 42	55 42	55 42		
Malicious mischief,	1	1						9 75	9 75	9 75		
	6	3	1	1	2	2		317 59	317 59	317 59		

WRIGHT COUNTY.

	Number.	Convictions.	Acquittals.	Punishment			Under influence of intoxicating liquors.	Total costs.	Costs collected.	Paid by county.	Fines assessed.	Fines collected.
				In under 7 years.	In County Jail.	Fines.						
* Murder in 1st degree,	1	1			1	2	1	\$415 00		\$415 00		
Assault and battery,	3	2	1					30 00	\$15 00	15 00	\$20 00	\$10 00
	4	3	1		1	2	1	445 00	15 00	430 00	20 00	10 00

* Not yet sentenced.

OLMSTED COUNTY.

Larceny, - - -	1	1	1
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Brown County reports no prosecutions.
 Freeborn County reports no prosecutions.
 Pine County reports no prosecutions.
 Sherburne County reports no prosecutions.
 Steele County reports no prosecutions.
 Mille Lac County reports no prosecutions.
 Benton County no Attorney.

SUMMARY OF COUNTY ATTORNEYS' REPORTS.

OFFENCES INVESTIGATED.

Murder in first degree,	-	-	-	-	7
Manslaughter in first degree,	-	-	-	-	1
Assault and battery, -	-	-	-	-	118
Assault with intend to kill,	-	-	-	-	6
Assault with intent to do injury,	-	-	-	-	2
Assault,	-	-	-	-	1
Malicious mischief, -	-	-	-	-	12
Nuisance,	-	-	-	-	1
Cutting timber on School Lands,	-	-	-	-	1
Larceny,	-	-	-	-	32
Perjury,	-	-	-	-	2
Counterfeiting	-	-	-	-	1
Rape,	-	-	-	-	2
Violation of Liquor Law,	-	-	-	-	8
Violation of Sunday Law,	-	-	-	-	2
Incest, -	-	-	-	-	1
Contempt of Court, -	-	-	-	-	1
Embezzlement, -	-	-	-	-	2
Receiving stolen goods.	-	-	-	-	1
Seduction,	-	-	-	-	1
Adultery, -	-	-	-	-	2
Obtaining goods under false pretences,	-	-	-	-	1
Attempt to commit rape,	-	-	-	-	1
Threatening bodily harm,	-	-	-	-	1
Passing counterfeit money, -	-	-	-	-	1

Total convictions,	-	-	-	-	139
Total acquittals,	-	-	-	-	48
Under influence of intoxicating liquors,	-	-	-	-	19
Total costs,	-	-	-	-	\$3,837 94
Total costs collected,	-	-	-	-	627 35
Total costs paid by County,	-	-	-	-	2,990 02
Total fines assessed,	-	-	-	-	2,766 00
Total fines collected,	-	-	-	-	1,311 00

PUNISHMENTS.

Punishment by death,	-	-	-	-	1
Punishment by imprisonment in State Prison under seven years,	-	-	-	-	6
Punishment by imprisonment in County Jail,	-	-	-	-	8
Punishment by fines,	-	-	-	-	80

End